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Before the  
Federal Communications Commission  
Washington, D.C. 20554

FCC MAIL SECTION

JUL 28 3 08 PM '94

MM Docket No. 93-72

In the Matter of

DISPATCHED BY

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations,  
(Ridgecrest and Lenwood, California)

RM-8154

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: July 21, 1994;

Released: July 28, 1994

By the Acting Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making*, 8 FCC Rcd 2249 (1993), issued in response to a petition filed by Roy William Mayhugh, tr/as KLOA Radio ("petitioner"), licensee of Station KLOA-FM, Channel 285A, Ridgecrest, California, proposing the substitution of Channel 285B1 for Channel 285A and modification of its license accordingly. Additionally, to accommodate the proposal, petitioner requested the substitution of Channel 283A for Channel 285A at Lenwood, California, and modification of the authorization issued to Eneida Orchard ("Orchard") for Station KIQQ-FM.<sup>1 2</sup> Petitioner filed supporting comments reiterating an intention to apply for Channel 285B1 if allotted to Ridgecrest, as requested.<sup>3</sup>

2. We believe the public interest would be served by granting petitioner's modification request. Therefore, we will substitute Channel 285B1 for Channel 285A at Ridgecrest since it will afford petitioner greater flexibility in site selection and enable Station KLOA-FM to expand its coverage area. Additionally, we will substitute Channel 283A for Channel 285A at Lenwood to accommodate petitioner's proposal. The substitution at Lenwood will afford Station KIQQ-FM an opportunity to operate at maximum Class A facilities, a benefit not presently available to it.

3. As stated in the *Notice*, Channel 285B1 can be allotted to Ridgecrest at the petitioner's suggested site, located 4.5 kilometers (2.8 miles) east of the community at coordinates 35-36-27 and 117-37-29. Channel 283A can be allotted to Lenwood at the site specified for Station KIQQ-FM at coordinates 34-51-20 and 117-02-57. As Lenwood is located

within 320 kilometers (199 miles) of the Mexican border, concurrence of the Mexican government in this proposal was obtained.

4. In accordance with the provisions of Section 1.420(g) of the Commission's Rules, we are modifying herein the license of Station KLOA-FM to specify operation on Channel 285B1 in lieu of Channel 285A at Ridgecrest. Additionally, since Orchard has consented to change the frequency of operation for Station KIQQ-FM, we are also modifying the construction permit therefor to specify Channel 283A in lieu of Channel 285A at Lenwood.

5. Commission policy requires reimbursement to affected licensees or permittees for reasonable costs associated with changing frequencies. *See, Circleville, Ohio*, 8 FCC 2d 159 (1967). Petitioner has stated its intention to reimburse Station KIQQ-FM for the reasonable costs related to the Class A frequency change at Lenwood.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED. That effective **September 12, 1994**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

|                        |                     |
|------------------------|---------------------|
| City                   | Channel No.         |
| Ridgecrest, California | 224B1, 285B1        |
| Lenwood, California    | 245A, 283A,<br>297A |

7. IT IS FURTHER ORDERED. That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of KLOA Radio (File No. BLH-790226AF) for Station KLOA-FM, IS MODIFIED to specify operation on Channel 285B1 in lieu of Channel 285A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

<sup>1</sup> The construction permit issued to Orchard for Station KIQQ-FM (File No. BPH-880714NP) was cancelled and the call letters deleted by staff letter on February 8, 1994. Orchard subsequently filed a Form 307 application (File No. BPH-940321JB), to replace the expired construction permit, which is being treated as a petition for reconsideration of the Commission's dismissal action.

<sup>2</sup> As announced in the *Notice*, it was unnecessary to issue an *Order to Show Cause* to Station KIQQ-FM since petitioner's

proposal included a letter from Orchard consenting to the proposed frequency change at Lenwood.

<sup>3</sup> As stated in the *Notice*, petitioner's request, although signed and an address provided, did not verify the statements contained in the petition, as required by Section 1.52 of the Commission's Rules. Petitioner was requested to correct the deficiency in its responsive comments, and has complied accordingly.

8. IT IS FURTHER ORDERED. That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Eneida Orchard for Station KIOQ-FM, Lenwood, California, IS MODIFIED to specify operation on Channel 283A in lieu of Channel 285A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station KIOQ-FM's authorization, except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for a construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with its authorization, except for the channel as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

9. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Roy William Mayhugh, tr/as KLOA Radio, licensee of Station KLOA-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the upgrade at Ridgecrest.

10. IT IS FURTHER ORDERED. That the Secretary of the Commission SHALL SEND a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to Eneida Orchard, Radio Station KIOQ-FM, 11920 Hesperia Road, Hesperia, California 92345.

11. IT IS FURTHER ORDERED. That this proceeding IS TERMINATED.

12. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530.

#### FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Acting Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau